

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

July 8, 2008

No. 07-41195
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ARTURO DeHOYOS

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:04-CR-2040-1

Before JOLLY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Arturo DeHoyos appeals his conviction for possession of over five kilograms of cocaine with intent to distribute. For his sole issue on appeal, DeHoyos contends that his guilty plea was rendered involuntary because his trial counsel repeatedly misadvised him that, if he pleaded guilty, he would receive no more than 10 years in prison and would avoid a mandatory life sentence under 21 U.S.C. § 841(b)(1)(A), despite his two prior felony drug convictions. Because 28 U.S.C. § 2255 is the preferred vehicle for raising a claim

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

of ineffective assistance of counsel, we decline to address this issue on direct appeal. See *Massaro v. United States*, 538 U.S. 500, 504-05 (2003); *United States v. Lampazianie*, 251 F.3d 519, 527 (5th Cir. 2001).

Accordingly, the judgment is AFFIRMED. DeHoyos may, of course, pursue relief under § 2255.